

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KASEY J DOREY
Claimant

APPEAL NO. 21A-UI-04683-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/06/20
Claimant: Appellant (2)

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.4(7) – Re-employment Services
871 IAC 24.2(1)(e) – Failure to Report as Directed

STATEMENT OF THE CASE:

The claimant, Kasey Dorey, filed a timely appeal from the January 29, 2021, reference 02, decision that denied benefits effective January 24, 2021, based on an Agency determination that the claimant failed to report as directed for reemployment and eligibility assessment on January 27, 2021. After due notice was issued, a hearing was held on April 12, 2021. The claimant participated and presented additional testimony through Dana Dorey. Tobin Garrett, IWD RESEA Career Planner, participated. Exhibits 1, 2, 3 and A were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO and DBRO.

ISSUES:

Whether the claimant failed to report to Iowa Workforce Development as directed for reemployment services and eligibility assessment on January 27, 2021 and, therefore, did not meet the available for work requirement effective January 24, 2021.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective December 6, 2020. The claimant made weekly claims for the three weeks between December 6, 2020 and December 26, 2020. The claimant then discontinued his claim for benefits because he had commenced new employment with Schneider International. On January 4, 2021, the claimant traveled to Indianapolis, Indiana for a two-week intensive training so that he could get a commercial driver's license (CDL). Immediately thereafter, Schneider assigned the claimant to job shadow another over-the-road truck driver for two weeks. The claimant did not get back home until on or about February 3, 2021.

On January 12, 2021, Iowa Workforce Development mailed a notice to the claimant's last-known address of record. The notice and an accompanying letter directed the claimant to be available for a phone call with IWD at 11:15 a.m. on January 27, 2021 for an initial Re-

Employment Services and Eligibility Assessment (RESEA). The letter directed the claimant to call a designated number prior to the scheduled date of the RESEA appointment to advise of circumstances that prevented him from attending and completing the appointment. The letter warned that failure to report as directed would result in denial of unemployment benefits. The letter also included the following statement: "If you have a job and are no longer receiving unemployment benefits, please call the above phone number prior to your scheduled meeting and report the name of your employer, new job title and your start date." The claimant did not appear for the RESEA appointment on January 27, 2021 and did not give notice that he would be unavailable to attend.

The claimant resides in an apartment on his mother's property. While the claimant was away from home, he had his mother collect his mail and set most of it aside for the claimant to review later. That is what happened with the January 12, 2021 notice to appear for the January 27, 2021 RESEA appointment. The claimant's mother told the claimant who the mail was from and then set it aside pursuant to the claimant's request.

The claimant did notify IWD of the scheduling conflict as directed in the January 12, 2021 notice.

On January 29, 2021, Iowa Workforce Development issued the reference 02, decision that denied benefits effective January 24, 2021, based on an Agency determination that the claimant failed to report as directed for reemployment and eligibility assessment on January 27, 2021.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4(7) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

7. The individual participates in reemployment services as directed by the department pursuant to a profiling system, established by the department, which identifies individuals who are likely to exhaust benefits and be in need of reemployment services.

Iowa Admin. Code r. 871-24.6(1-6) provides:

Reemployment services and eligibility assessment procedure.

(1) The department of workforce development will provide a program which consists of profiling claimants and providing reemployment services.

(1) Purpose.

a Profiling is a systematic procedure used to identify claimants who, because of certain characteristics, are determined to be permanently separated and most likely to exhaust benefits. Such claimants may be referred to reemployment services.

b. The eligibility assessment program is used to accelerate the individual's return to work and systematically review the individual's efforts towards the same goal.

(3) Reemployment services and eligibility assessment may include, but are not limited to, the following:

- a. An assessment of the claimant's aptitude, work history, and interest.
- b. Employment counseling regarding reemployment approaches and plans.
- c. Job search assistance and job placement services.
- d. Labor market information.
- e. Job search workshops or job clubs and referrals to employers.
- f. Résumé preparation.
- g. Other similar services.

(4) As part of the initial intake procedure, each claimant shall be required to provide the information necessary for profiling and evaluation of the likelihood of needing reemployment assistance.

(5) The referral of a claimant and the provision of reemployment services is subject to the availability of funding and limitations of the size of the classes.

(6) A claimant shall participate in reemployment services when referred by the department unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed such training or services. Failure by the claimant to participate without justifiable cause shall disqualify the claimant from the receipt of benefits until the claimant participates in the reemployment services or eligibility assessment. The claimant shall contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause..

- a. Justifiable cause for failure to participate is an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant. Justifiable cause includes when the claimant is scheduled for an employment interview, is verified return to work, or both prior to the scheduled appointment or service.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

- 3. The individual is able to work, is available for work, and is earnestly and actively seeking work. ...

In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. Iowa Administrative Code rule 871-24.2(1)(e). Failure to report as directed to workforce development in response to the notice which was mailed to the claimant will result in the claimant being deemed not to meet the availability requirements. Iowa Administrative Code rule 871-24.23(11).

The claimant had justifiable cause for not appearing for the RESEA appointment on January 27, 2021. At the time of the RESEA appointment, the claimant was participating in training regarding the new job he had started. However, the claimant did not take reasonable steps to deal with time-sensitive mail during his month-long absence and did not notify IWD of this scheduling conflict in advance of the appointment. If the claimant had been making weekly claims for the period beginning January 24, 2021, his failure to appear as directed may have cost him unemployment insurance benefits. However, because the claimant had discontinued his weekly claims before the notice to appear for RESEA was mailed, the issue is moot and no disqualification will enter based on the failure to appear.

DECISION:

The January 29, 2021, reference 02, decision is reversed. The claimant had justifiable cause for not appearing as directed for January 27, 2021 RESEA services and had discontinued his claim for benefits well before the directive was issued as well as well before the appointment date. No disqualification will enter based on the failure to appear as directed.



James E. Timberland
Administrative Law Judge

April 15, 2021
Decision Dated and Mailed

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